

1 SHAW G. PHILLIPS
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2 SARATOGA SPRINGS, UTAH 84045
3 (801) 372-4894

FILED US District Court-UT
APR 13 '23 PM12:37

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5
6 **IN THE UNITED STATES DISTRICT COURT**
7 **IN AND FOR**
8 **THE DISTRICT OF UTAH, CENTRAL DIVISION**
9 **IN AND FOR THE COUNTY OF SALT LAKE**

351 S West Temple, Room 10.320,

Salt Lake City, UT 84101

Case No.: 2:12-cv-00801-TS-EJF

12 PATRICIA D. SPARTO, an individual)
13 Plaintiff,)

14 v.)

15 HEARTS FOR HOSPICE, LLC, a Utah)
16 limited liability company, and)
17 SHAW PHILLIPS, an individual,)
18 Defendants/Counter-Plaintiffs)

NOTICE OF MOTION AND MOTION TO
SEAL COURT RECORDS.
Rule 4-205. Security of court records
Hearing Date:
Hearing Time:
Dept.

20
21 **TO PLAINTIFF AND ATTORNEY OF RECORD, PLEASE TAKE NOTICE** that as
22 soon thereafter as the matter may be heard, in the above-captioned court located at
23 351 S West Temple, Room 10.320, Salt Lake City, UT 84101
24 above-named SHAW G. PHILLIPS will move the Court to restrict access to the court file
25 associated with 2:12-cv-00801-TS-EJF in accordance with UTAH Rules of Court
26 Rule 4-205. Security of court records.

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28 NOTICE OF MOTION AND MOTION TO SEAL COURT RECORDS.

1 This motion will be made on the grounds that Plaintiff in 2014 was terminated by Shaw
2 Phillips, CEO, and the DEFENDANT. Then six months later, the plaintiff filed an EEOC
3 claim. This claim was UNFOUNDED by the EEOC, and a "right to sue letter was issued."
4 Plaintiff filed suit, Defendant-Counterclaimant Hearts for Hospice ("HFH") provides hospice
5 and home health care to persons in Idaho and Utah. Defendant-Counterclaimant Shaw
6 Phillips ("Phillips") is HFH's, Chief Executive Officer. HFH employed Sparto as Vice
7 President of Clinical Operations for Home Health until she was fired on January 21, 2011.

8
9 After her employment was terminated, Sparto filed a complaint with the Utah
10 Antidiscrimination and Labor Division ("UALD") in May 2011, alleging sexual harassment
11 by HFH and Phillips (collectively, "Defendants"). Sparto also filed a similar complaint with
12 the Equal Employment Opportunity Commission ("EEOC"), which provided Sparto with a
13 right to sue letter in May 2012 once claim was UNFOUNDED by the EEOC. Sparto filed
14 the Complaint in the instant case, alleging sexual discrimination and sexual harassment
15 against Defendants.

16
17 On November 9, 2012, Defendants filed their Answer, in which they assert eight
18 counterclaims against Sparto: (1) slander, (2) slander per se, (3) libel, (4) libel per se, (5)
19 intentional interference with prospective economic advantage, (6) negligent interference
20 with prospective economic advantage, (7) intentional infliction of emotional distress, and (8)
21 negligent infliction of emotional distress. Each of these claims arise from Defendants'
22 allegations that Sparto discussed her accusations about Phillips's sexual misconduct with the
23 UALD, the EEOC, Sparto's family and friends, and HFH's current and former employees
24 and patients.

25
26 On October 23, 2013, Sparto moved for partial summary judgment seeking dismissal of all
27 eight of Defendants' counterclaims. Defendant Phillips has filed an Opposition to Summary
28 Judgment but HFH has not responded to the Motion. On December 23, 2013, Sparto objected
NOTICE OF MOTION AND MOTION TO SEAL COURT RECORDS.

1 to four exhibits that Defendant Phillips included in his Opposition.

2
3 Then the parties resolved their disagreement without a court order. On the 8th day of
4 September, Defendant served the court with an ORDER TO DISMISSAL WITH
5 PREJUDICE, which was granted by the Honorable, Ted Stewart, U.S. District Court Judge
6 District of Utah.

7
8 Defendant requested dismissal of the action with prejudice. Although the matter was
9 dismissed, and no judgment was entered against Plaintiff, the facts of the case are still public
10 and possibly altering the character of Plaintiff, Mr. Shaw Phillips. Furthermore, the public
11 record still indicated that unlawful sexual harassment occurred against the Defendant,
12 damaging the plaintiff's ability to find or obtain employment advancements.

13
14 This motion is based upon this notice; the granted dismissal of the case is attached.

15
16 Dated: April 6, 2023, By: ShawPhillips
17 Plaintiff

18
19 **MEMORANDUM OF POINTS AND AUTHORITIES**

20 **I. STATEMENT OF FACTS**

21 Unless this motion is granted, Employment, recruiters, and the public at large will
22 have access to the court file and can see the legally alleged report of the fact that sexual
23 harassment occurred. When in real-time, the EEOC did a full investigation and found no
24 merit to the Defendant's claim, nor did the plaintiff's legal team. The action was filed against
25 the plaintiff even though the EEOC dismissed the case, no judgment was entered against the
26 plaintiff.

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Granting this order will effectuate misleading information, impairing the Plaintiff's ability and right to obtain enhanced employment in the future.

PLAINTIFF moves the Court for an order permanently sealing this court record pursuant to Rule 4-205. Security of court records Rules of Court. PLAINTIFF is informed and believes DEFENDANT's attorney has no objection to this motion. (See Declaration attached hereto)

Defendant now submits a memorandum of points and authorities concerning the Court's authority to seal this court record permanently.

II. THE COURT HAS THE POWER AND AUTHORITY TO SEAL THE RECORD

Rule 4-205. Security of court records Utah Rules of Court permits a party to move or apply to the Court for an order sealing a record when there are facts sufficient to justify the sealing. The Court may order the record sealed.


III. CONCLUSION

For the foregoing reasons, Plaintiff requests the Court to seal the record permanently, in this case, to protect his employment record from misleading and incomplete information from websites like leagle.com, that could prevent him from finding employment and or advancements in the future.

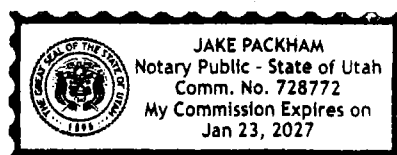
Respectfully Submitted,

Dated: April 6, 2023

By:


 State of UTAH
 County of UTAH
 Plaintiff, On this 6 day of April, 2023, SHAW PHILLIPS
 Personally appeared before me,
 — who is personally known to me.
☒ who's identity I verified on the basis of UTDL 170766821
 — who's identity I verified on the oath/affirmation of
 a creditable witness,
 to be the signer of the foregoing document, and he/she
 acknowledges that he/she signed it.

NOTICE OF MOTION AND MOTION TO SEAL COURT RECORDS.




 Notary Public
 My Commission Expires 01/23/27